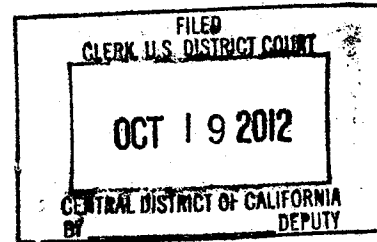


1 ANDRÉ BIROTTE, JR.
United States Attorney
2 LEON W. WEIDMAN
Assistant United States Attorney
3 Chief, Civil Division
RUTH M. KWON (SBN: 232569)
4 Assistant United States Attorney
Federal Building, Suite 7516
5 300 North Los Angeles Street
Los Angeles, California 90012
6 Telephone: (213) 894-3038
7 Fax: (213) 894-7819



8 Attorneys for the Plaintiff
HILDA L. SOLIS, Secretary of Labor,
9 United States Department of Labor

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

14
15 HILDA L. SOLIS, Secretary of)
16 Labor, United States Department of)
17 Labor,)
18)
19 Plaintiff,)

No. CV:

CV12-09019 GW/STH

COMPLAINT

20 v.)

21 LOCAL 848, INTERNATIONAL)
22 BROTHERHOOD OF TEAMSTERS,))

[For violation of Title IV of the
Labor-Management Reporting
and Disclosure Act of 1959,
29 U.S.C. § 481]

1 Plaintiff, Hilda L. Solis, Secretary of Labor, alleges as follows:

2 NATURE OF THE ACTION

3 1. This action is brought under Title IV of the Labor-Management
4 Reporting and Disclosure Act of 1959, 29 U.S.C. §§ 481-84 (the "Act"), for a
5 judgment declaring that the December 1, 2011 election of union officers conducted
6 by Local 848, International Brotherhood of Teamsters (Defendant) for the offices
7 of President, Vice President, Recording Secretary, Secretary-Treasurer, and three
8 Trustee positions is void, and directing Defendant to conduct a new election for
9 these offices under Plaintiff's supervision, and for other appropriate relief.

10 JURISDICTION AND VENUE

11 2. This Court has jurisdiction over this action pursuant to 29 U.S.C. §
12 482(b), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.

13 3. Venue lies in this district pursuant to 29 U.S.C. § 482(b) and 28 U.S.C. §
14 1391(b).

15 PARTIES

16 4. Plaintiff Hilda L. Solis is the duly appointed Secretary of Labor, United
17 States Department of Labor. Plaintiff is authorized to bring this action under
18 section 402(b) of Title IV of the Act, 29 U.S.C. § 482(b).

19 5. Defendant is, and at all times relevant to this action has been, an
20 unincorporated association residing within the County of Los Angeles, California,
21 within the jurisdiction of this district.

22 FACTUAL ALLEGATIONS

23 6. Defendant is, and at all times relevant to this action has been, a local
24 labor organization engaged in an industry affecting commerce within the meaning
25 of sections 3(i), 3(j) and 401(b) of the Act, 29 U.S.C. §§ 402(i), 402(j) and 481(b).

26 7. Defendant, purporting to act pursuant to its Bylaws and the Constitution
27 of the International Brotherhood of Teamsters (International) conducted an election
28

1 of officers on December 1, 2011, and this election was subject to the provisions of
2 Title IV of the Act, 29 U.S.C. §§ 481-484.

3 8. The candidates ran for office on two slates: the incumbent Tate Slate and
4 the insurgent Walt Johnson Slate. Complainant Nikko Hashimoto was a candidate
5 for president on the Walt Johnson Slate.

6 9. On October 17, 2011, approximately 87 members of the Local filed a pre-
7 election protest with the Defendant's Secretary Treasurer and Executive Board
8 asking that the Walt Johnson Slate be charged before the Local's Executive Board
9 for: (1) "fraudulent unlawful deceptive campaign fundraising; claiming to be a
10 non-profit organization without filing for non-profit status;" (2) "claiming to be a
11 non-profit organization while running a political campaign;" and (3) "misleading
12 and lying to members about donations and contributions being tax deductible."

13 10. The Local's Election Committee held a hearing on October 29, 2011, on
14 the charges.

15 11. Neither Complainant nor anyone else from the Walt Johnson Slate
16 attended or participated in the hearing.

17 12. The Local's Election Committee unanimously concluded that: (1) "the
18 Walt Johnson Slate did represent their organization as a non-profit organization
19 and/or stated that donation(s) to their campaign were tax deductible;" (2) "the []
20 representation of non-profit status was published on the Internet for everyone to
21 see;" and (3) "[i]n fact in accordance with the evidence presented the Walt Johnson
22 Slate is not a non-profit organization."

23 13. As a remedy to these violations, the Election Committee ordered the
24 Walt Johnson Slate to revise its campaign literature and websites, and ordered that
25 the decision "be posted on all union bulletin boards at companies represented by
26 Local 848, from November 1, 2011 until December 1, 2011."
27
28

1 14. Complainant appealed the Election Committee's decision to
2 International President James Hoffa, asserting that it was "an unlawful punishment
3 for free speech," and requested a stay of the decision.

4 15. On November 16, 2011, President Hoffa issued a final decision
5 reversing the Local Election Committee's decision with respect to the penalties it
6 imposed.

7 16. Despite this decision, the Defendant failed to ensure the removal of the
8 Local Election Committee's posted decision from all shops.

9 17. The decision remained posted in at least ten shops through the
10 December 1, 2011 election.

11 18. During the ballot tally, the Defendant decided to apply a more lenient
12 dues payment deadline than that required by the International Constitution and
13 Local Bylaws to all members on dues checkoff, only requiring payment through
14 June 30, 2011, rather than November 30, 2011.

15 19. As a result of the change in eligibility rules, 33 ineligible members were
16 permitted to vote in the election.

17 20. 1,858 members voted in the election.

18 21. The incumbents won every office.

19 22. By letter dated December 2, 2011, to the International Brotherhood of
20 Teamsters' Joint Council 42 President, the complainant, Nikko Hashimoto, a
21 member in good standing of Defendant, protested the election of officers.

22 23. Having invoked the remedies available for three calendar months
23 without receiving a final decision after invocation, the complainant filed a timely
24 complaint with the Secretary of Labor on April 2, 2012, within the one calendar
25 month, as required under section 402(a)(2) of the Act, 29 U.S.C. § 482(a)(2).

26 24. In a series of letters, the Defendant agreed that the time within which the
27 Plaintiff may bring suit with respect to the Defendant's aforesaid election be
28 extended to October 19, 2012.

1 25. Pursuant to section 601 of the Act, 29 U.S.C. § 521, and in accordance
2 with section 402(b) of the Act, 29 U.S.C. § 482(b), the Plaintiff investigated the
3 complaint and, as a result of the facts shown by her investigation, found probable
4 cause to believe that: (1) violations of Title IV of the Act, 29 U.S.C. §§ 481-484,
5 had occurred in the conduct of the Defendant's
6 December 1, 2011 election; and (2) that such violations had not been remedied at
7 the time of the institution of this action.

8 FIRST CAUSE OF ACTION

9 26. Section 401(e) of the Act, 29 U.S.C. § 481(e), provides that every union
10 member in good standing has the right to vote for or otherwise support the
11 candidate or candidates of his choice, without being subject to penalty, discipline,
12 or improper interference or reprisal of any kind by the union or any union member.

13 27. Defendant violated section 401(e) of the Act, 29 U.S.C. § 481(e), during
14 the conduct of the aforesaid election, by subjecting Complainant and her slate to a
15 pre-election trial for their campaign speech.

16 SECOND CAUSE OF ACTION

17 28. Plaintiff restates and realleges Paragraphs 1 through 27 as though set
18 forth here in full.

19 29. Section 401(c) of the Act, 29 U.S.C. § 481(c), requires unions to provide
20 "adequate safeguards" to insure a fair election.

21 30. Despite being overturned by International, the Local Election
22 Committee failed to remove its overturned decision from Defendant's bulletin
23 boards, thereby allowing that superseded decision to cast a negative view of the
24 complainant and her slate, in violation of section 401(c) of the Act, 29 U.S.C. §
25 481(c).

26 THIRD CAUSE OF ACTION

27 31. Plaintiff restates and realleges Paragraphs 1 through 30 as though set
28 forth here in full.

1 32. Section 401(e) of the Act, 29 U.S.C. § 481(e), requires a union to
2 conduct its elections “in accordance with the constitution and bylaws of such
3 organization.”

4 33. Defendant violated section 401(e) of the Act, 29 U.S.C. § 481(e),
5 during the conduct of the aforesaid election, by failing to adhere to the voter
6 eligibility requirements set forth in the Defendant’s Bylaws and International
7 Constitution resulting in ineligible members being permitted to vote.

8 34. The violations of sections 401(c) and 401(e) of the Act, 29 U.S.C. §§
9 481(c) and 481(e), may have affected the outcome of the Defendant’s election for
10 the offices of President, Vice President, Recording Secretary, Secretary-Treasurer,
11 and three Trustee positions.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment:

(a) declaring the Defendant's election for the offices of President, Vice President, Recording Secretary, Secretary-Treasurer, and three Trustee positions to be void;

(b) directing the Defendant to conduct a new election for those offices under the supervision of the Plaintiff;

(c) for the costs of this action; and

(d) for such other relief as may be appropriate.

Respectfully submitted,

ANDRÉ BIROTTE, JR.

United States Attorney

LEON W. WEIDMAN

Assistant United States Attorney,

Chief, Civil Division



RUTH M. KWON

Assistant United States Attorney

Attorneys for Plaintiff Hilda Solis,

Secretary of Labor, United States

Department of Labor

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge George H. Wu and the assigned discovery Magistrate Judge is Stephen J. Hillman.

The case number on all documents filed with the Court should read as follows:

CV12- 9019 GW (SHx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

COPY

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> HILDA L. SOLIS, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR		DEFENDANTS LOCAL 848, INTERNATIONAL BROTHERHOOD OF TEAMSTERS	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide name of Attorney) Andrew Blotter, United States Attorney Leon W. Weidman, AUSA, Chief, Civil Division Ruth M. Kwon, AUSA, CSBN: 232569 300 North Los Angeles Street, Suite 7516, Los Angeles, CA 90012 Email: ruth.kwon@usdoj.gov, (213)-894-3038, fax (213) 894-7819		Attorneys (If Known) Elizabeth Rosenfeld, Esq. Wohler Kaplan Phillips Young & Cutler 16501 Ventura Blvd., Ste. 304 Encino, CA 91436 Email: rosenfeld@wkpcc.com, (818) 501-8030 x313, fax (818) 501-5306	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): _____ <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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V. REQUESTED IN COMPLAINT: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$ _____
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VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 29 U.S.C. 481
--

VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input checked="" type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

CV12-09019

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☒ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

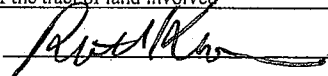
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):



Date 10/19/2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))